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**COUNSEL FOR APPELLEES**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

CENTURY INDEMNITY CO., as  
successor  
To CCI Insurance Co. as successor to  
Insurance Co. of North America and  
Central National Insurance Co.,  
Appellant,

v.

BARON & BUDD, P.C., and SILBER  
PEARLMAN LLP,  
Appellees.

IN RE:

OWENS CORNING, et al.

Debtors.

Civil Action

Docket No.: 04-CV-1467

Judge: John P. Fullam

Chapter 11

Case Nos. 00-3837 – 3854  
(JKF)  
(Jointly Administered)

Dated: September 27, 2005

**CITATION OF ADDITIONAL SUBSEQUENT AUTHORITY PURSUANT TO  
LOCAL RULE 7.1.2(c) BY APPELLEES BARON & BUDD, P.C., AND SILBER  
PEARLMAN LLP**

The law firms of Baron & Budd, P.C. and Silber Pearlman, LLP (collectively, “Appellees”) file this citation of additional subsequent authority pursuant to Local Rule 7.1.2.(c) to apprise this Court of Judge Joy Flowers Conti’s recent decision affirming another order substantively identical to the order at issue in this appeal. Judge Conti’s decision was rendered in *Certain Underwriters at Lloyd’s, London v. Pittsburgh Corning Corp. (In re Pittsburgh Corning Corp.)*, Civil Action No. 04-1814, 2005 WL ----- (W.D. Pa., Sept. 27, 2005).<sup>1</sup> A copy of the *Pittsburgh Corning* opinion is attached hereto as Exhibit A for the Court’s convenient reference, and may further inform the Court’s consideration of the appeal *sub judice*.

Judge Conti’s decision in *Pittsburgh Corning* rests on justiciability grounds. The *Pittsburgh Corning* court concluded that the appellant insurers had failed to show that they possessed the requisite standing to maintain their appeals:

For purposes of standing, this court cannot find that appellants meet the “aggrieved persons” test. The court finds that appellants failed to show that the 2019 Order diminished their property, increased their burdens or impaired their rights.

*Pittsburgh Corning* at 16.

Judge Conti concluded in the alternative that the insurers’ appeal of the 2019 Order in *Pittsburgh Corning* was not ripe because the insurers had not availed themselves of a mechanism in the 2019 Order itself in seeking to obtain access to the so-called 2019 exhibits. In contrast, the

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<sup>1</sup> The United States Bankruptcy Court for the District of Delaware, Honorable Judith K. Fitzgerald, issued identical “Revised Order[s] Requiring Filing of Statements Pursuant to Fed. R. Bankr. P. 2019” on October 22, 2004, in a number of the mass tort reorganization cases then pending before her in this District and in the District of Western Pennsylvania. A number of these “2019 Orders” were appealed. Appellees have previously brought to the Court’s attention District Judge Joseph J. Farnan, Jr.’s decision in late July affirming two orders substantively identical to the order at issue in this appeal in *Certain Underwriters at Lloyd’s, London v. Future Asbestos Claim Representative (In re Kaiser Aluminum Corp.)*, 327 B.R. 554, 2005 WL 1799189 (D. Del. 2005). (See D. I. 23). No further appeal was taken from Judge Farnan’s affirmance, which is now final.

appellant here, Century Indemnity Co., has already obtained access to the 2019 exhibits pursuant to that very mechanism, raising the specter of mootness. *See* Motion to Dismiss Bankruptcy Appeal as Moot by Appellees Baron & Budd, P.C., and Silber Pearlman, LLP with supporting memorandum, D.I. 17 & 18.

Dated: September 27, 2005  
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/s/ Daniel K. Hogan

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